

October 19, 2000

Mr. Les Boles  
Office of State Budget  
1122 Lady Street, 12<sup>th</sup> Floor  
Columbia, S.C. 29201

Dear Mr. Boles,

Enclosed is the 1999-2000 Annual Accountability Report for the South Carolina Attorney General=s Office.

I hope the Governor and General Assembly find that the information in the Annual Accountability Report explains the mission, objectives and performance measures of the Attorney General=s Office in a concise and straightforward manner.

Please contact me at 734-3758 with any questions or comments.

Sincerely,

T. Scott Beck  
Special Assistant for  
Legislative and Public Affairs

**ANNUAL ACCOUNTABILITY  
REPORT**

**FY 1999-2000**

**OFFICE OF THE ATTORNEY GENERAL  
STATE OF SOUTH CAROLINA**

## **EXECUTIVE SUMMARY**

The Office of the South Carolina Attorney General, as the State's Chief Legal Office, provides legal advice and legal representation in matters affecting the interests of the State. The Office provides legal representation to state governmental agencies and officers and may function as chief legal representative of the public interest for all citizens of the State. The data specified in this report provides an overview of the nature, complexity and volume of work performed by the South Carolina Attorney General's Office in its effort to efficiently and effectively represent the State of South Carolina.

## **MISSION STATEMENT:**

As the State's Chief Prosecutor, the Attorney General is responsible for all cases brought against criminal defendants. The Attorney General is also the State's Chief Attorney. In that capacity, he is authorized to assume primary control over the conduct of litigation which involves the interest of the State. He also protects the interests of the State as a unitary client. He controls the development of public law and litigation.

The Attorney General is authorized to represent and give legal opinions to State agencies, the Governor, the Legislature, and other public officials. The Attorney General also represents vigorously and defends the public interest of the State in legal proceedings.

## **LEADERSHIP SYSTEM:**

The day-to-day administrative and legal operations of the office are delegated primarily to the Chief of Staff. Assistant Deputies, Division Directors and other section managers report directly to the Chief of Staff, who is in constant contact with the Attorney General. The office exercises a participative style of management, wherein information and ideas are filtered from the lowest levels of the organization. The Office also incorporates an interactive style of management and fosters an open door policy.

## **ORGANIZATIONAL STRUCTURE:**

The office has adopted a hybrid organizational structure whereby divisions are established based on subject matter as indicated in the program section of this report. The formal reporting is in place for the sake of formal evaluations and other formal processes.

However, there is informal interaction between the Attorney General, the Chief of Staff and all levels of the organizational structure as determined by the issue at hand.

### **COMMUNICATION:**

Communication flows in all directions of the organization. While the hybrid organizational structure promotes formal communication, it also enhances the informal flow of information. Information is disseminated office-wide through effective use of an electronic mail system. The Office intranet is also utilized to publish policies and an electronic newsletter.

### **RESPONSIBILITY AND CITIZENSHIP:**

The office demonstrates its focus on the customers and gauges the success of service delivery through a Constituent Services Department designed to address the issues and concerns of the general public. Calls and correspondence from the general public are filtered through staff, who compile, research and respond in writing to public concerns. On some weekly basis, averages of one hundred twenty-five responses are sent. This data is used as an indicator to determine key needs which should be addressed through services offered, legislation, or recommendation to other state entities. In addition, feedback through this loop system identifies weaknesses and strengths and becomes the focus for improvements or organizational changes.

### **STANDARDS:**

Through a comprehensive policy and procedures manual, the Office makes a concerted effort to operate with the highest standards in compliance with state regulations as well as standards set out in the office code of ethics. Such is enforced through managers and supervisors at all levels of the organizational hierarchy. In addition, licensed attorneys are governed by the South Carolina Bar Association, the Professional Code of Conduct, standards set by the South Carolina Ethics Commission, and the National Association of Attorneys General.

### **STRATEGIC PLANNING:**

The goal portion of the strategic plan is part of the 2000-2001 budget packet, which includes a request and justification for additional staff. A survey of the customers of the South Carolina Attorney General's Office, defined as branches of State Government as well as the general public, is being developed at the time of this report. The results of that survey will be included with the 2001 Accountability Report.

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## **CUSTOMER FOCUS AND SATISFACTION:**

Customer focus and satisfaction lies ultimately with the public interest of the State of South Carolina and is measured by the voters every four years. The General Assembly also plays a role in defining public interest by their legislative actions. The Office of the Attorney General provides to the State of South Carolina a single source of legal services devoted to the long-term development and maintenance of consistent policy on state legal issues. The Office provides consistent fiscal planning of legal services and consistent compensation, promotion, and benefits for the State's legal staff. Because of its single source of legal representation, the Office provides an efficient delivery of legal services to the State.

The Attorney General is designated the Chief Legal Officer for the State and has supervisory responsibility over all litigation involving State agencies, boards, and commissions, as well as all criminal prosecutions in the courts of this State. Further, the Attorney General is required to appear before the South Carolina Supreme Court in any case in which the State has an interest. The duties and responsibilities of the Office are unique in that they are created by the South Carolina common law, the Constitution and statutes pertinent and specific to this State. Because the organization and mission make the Office unique and unlike any agency in the State or any other Office of Attorney General, the Office of the South Carolina Attorney General will utilize as its benchmark the compliance with the rules and procedures established in its internal Operating Guidelines and Principles, the various rules of the Courts of this State, the Rules of Ethics governing attorney conduct, and the Ethical Principles of State Government established for State employees. The Office will additionally utilize as its benchmark all procedures, guidelines, and time frames established by the South Carolina General Assembly in relevant statutory mandates. These benchmarks have been satisfied for FY 99-00.

## **OTHER PERFORMANCE EXCELLENCE CRITERIA**

### **Work Systems:**

The Office of the Attorney General strives to make maximum effectiveness of the band system by recruiting at the highest salary within the lowest band, thereby affording a career path for growth within the job. Utilizing the state Employee Performance Measurement System (EPMS), employees are evaluated on an annual basis.

The office has established a standard of excellence in the selection and recruitment of both support and professional staff. In addition to employment record checks, employees are screened for prior criminal records, illegal drug use, credit ratings, driving records, and filing of income taxes to determine if they have an established pattern of responsible and ethical conduct. Attorney staff is also required to be a member in good standings with the SC Bar Association, with no pending grievances against them.

As an effort to maximize resources, employees who exemplify expertise in areas beyond the requirements of their normal jobs may be asked to serve on committees designed to address specific office issues. Some examples of such are the design and implementation of a security system to protect employees and office property, an analysis of the law library, implementation of a computerized record system, and the establishment of criteria for a bonus program.

**Training and Development:**

Once employed, Attorney General Staff receives an orientation on the first day of employment to become familiar with the staff, policies and procedures, and other office practices. They become acclimated to the job duties and standards through on-the-job-training as well as a planning stage conducted by the immediate supervisor. In addition, employees are encouraged to participate in state-offered training as well as that offered by private consultants. Certification in specialized areas may be at the employee's expense due to state restrictions. However, when such affiliation enhances the office or employee in a relevant manner, employees may be permitted to attend meetings of such organizations on work time. Attorney's Bar dues are not paid by the office. However, Continuing Legal Education (CLE) programs are offered or paid for by the office during the course of each year.

**Employee Satisfaction:**

The Attorney General's Office established an Employee Recognition Program for the purpose of recognizing employees who have attained ten and twenty years of service. In addition, an employee is selected each year through peer nomination, to receive the Attorney General's Award of Excellence. The selection process is based on a predetermined set of criteria of which the employee has met all or most.

A suggestion system is established to allow employees to openly or anonymously report problems which occur in the office as well as make recommendations on improvements. In addition, the open door policy promotes a degree of comfort for all levels to communicate issues and concerns.

**PROGRAM NAME: STATE LITIGATION**

**Criminal Division:**

The Criminal Division includes the State Grand Jury, Criminal Appeals, Medicaid Fraud Control Unit, Insurance Fraud, Criminal Prosecution, Capital Litigation, and Post Conviction Relief. Primary responsibility for prosecution in South Carolina's criminal courts lies with the various circuit solicitors. The Criminal Appeals Section represents the State in direct appeals from a criminal conviction to the South Carolina Supreme Court, South Carolina Court of Appeals, and the United States Supreme Court. The Capital Litigation Section represents the State in death penalty appeals. The State Grand

Jury is responsible for the operation of a statewide grand jury which conducts investigations throughout South Carolina and initiates criminal prosecutions in drug, pornography, public corruption, and election fraud cases. The Medicaid Fraud and Insurance Fraud Sections investigate and prosecute Medicaid and insurance fraud crimes.

**Opinions:**

By statute, the Governor, members of the General Assembly, and agency heads are entitled to legal advice from the Office of the Attorney General. The Opinions Section supervises the research and issuance of legal opinions. Issues are frequently of a complex statewide policy matter. The opinions are reviewed for thoroughness and accuracy by the section. The section also advises legislators and their staff.

**Civil Division:**

The Civil Division handles many of the civil lawsuits brought by and against the State and its agencies. In addition, the division coordinates legal representation with the Budget and Control Board, its divisions, and the Governor's Office. This division is responsible for ethics and election matters. The division also includes a section that investigates complaints against attorneys and members of the judiciary.

**Administrative:**

The Administrative Division provides support and planning services necessary to the efficient operation of the Office. The division performs the business management, library, records management, support services, and personnel activities. The division is responsible for the Office's comprehensive drug testing program.

**Finance Division:**

This Division provides budgeting, accounting, grants management and other business services to the Office. The division processes all agency revenue and expenditure documents and maintains detailed records of fixed assets.

**Information Resources Division:**

This Division is responsible for the management and use of the Office's information resource materials.

**Public Information:**

The Public Information Section serves to keep the media and public advised of activities of the Office.

**PROGRAM GOAL:**

To advise and represent the General Assembly and the Governor, to defend the actions and investigate claims against public officers and employees, and to consult with and advise solicitors in matters relating to the duties of their Office.

**OBJECTIVES:**

- To speed up the process of court proceedings on criminal cases such as murder, rape, and robbery;
- To relieve the court and judicial system of its backlog of criminal cases.
- To reduce violent crimes committed against the citizens of South Carolina;
- To continue to address the rapid increase in violent crimes committed by youth through the Violent Youth in Schools Prevention Program;
- To offer an alternative to incarcerating youth offenders through a Youth Mentoring Program;
- To enhance the Office's program to address domestic violence as well as other violent crimes against women;
- To reduce the amount of time in capital cases between sentencing and actual execution;
  - To address the exploitation, abuse, and neglect of the elderly and other vulnerable adults through education and prosecution

**PERFORMANCE MEASURES:**

The following summary reflects the volume and status of cases currently managed by the Office. Such reporting is ongoing and will be used as a benchmark for future success in meeting the responsibilities of the Office of the Attorney General and its commitment to excellence.

**ATTORNEY GENERAL'S OFFICE  
STATISTICAL CASELOAD  
FY '99 and FY '00**

<b><u>SUBJECT</u></b>	<b><u>FILES ACTIVE FY'00</u></b>		<b><u>FILES ACTIVE FY '99</u></b>	
Administrative Procedures Act Matters		46		54
Agency Instituted Suits	20	22		
	Agency Legal Advice		27	28
76	75			
	Antitrust	20	18	
1	1			
5	5			
47	49			
7	4			
42	72			
230	175			
	Charities Litigation		2	2
33	33			
2	0			
5	5			
1	0			
17	13			



	1	1		
	89	6		
	4	3		
	1	0		
	9	6		
	1,359	1,534		
	134	76		
	6	3		
	22			
	38	420		
	1			
	35	36		
983 Actions)	11	12		
Elections	12		22	
Environmental/Health	20	23		
Environmental Prosecution		3	2	
Escheatments	3	1		
Extraditions/Detainer	118	87		
Family Law	1			
Federal Habeas Corpus	584	577		
Federal Habeas Corpus-Death Penalty		14	13	
Federal Litigation	7	6		
Forfeiture	4	5		
Freedom of Information	7	6		
Gambling	9	7		
			General	
				Prosecution
				326
	9	7		
	5	7		
Insurance Fraud/Investigation/Litigation	635		788	
3				
Medicaid Fraud Investigation/Litigation		606	248	
Monitoring of Case	70	68		
Obscenity	1			
Office Administration	3	1		
Opinions	262	357		
Other	2	29		
Other - Civil	202	205		
Other - Criminal	141	149		
Other\Death Penalty	6	7		
Personnel (Incl Griev/Retire)		37	64	
Post Conviction Relief Appeal	1,459	1,285		
Post Conviction Relief-Death Penalty APPEAL		12	7	
Post Conviction Relief-Death Penalty	56		58	

Post Conviction	3,532	3,264	
Prizes, Gifts & Lotteries	18	17	
Professional Discipline Matter		30	28
Real Property	16		14
Review of Legislation, Regs, etc.		2	2
Second Injury Fund	2		2
Securities Investigation/Cases		102	5
Securities Regulation	8		
Sexual Predator Reviews	384		256
Sexually Violent Predator Act		289	234
State Grand Jury - Criminal Appeals		5	2
State Grand Jury - Criminal Prosecution		404	427
Special Investigation	3		3
Tidelands	27		25
Tort Claims (Defense of)	9		7
Unfair Trade Practices	1		1
Unlawful Practice of Law	134		95
Victim Assistance Reports		1,495	2,207
Voting Rights Matters	18		19
Wildlife	1		1
Wills, Trusts and Estates	182		183
<b>Total</b>		<b>14,038</b>	
	<b>13,956</b>		

*Total active files includes those opened, closed or open during the year.*

## **DESCRIPTION OF PROGRAMS**

### **CIVIL DIVISION**

The Civil Division of the Attorney General's Office represents and advises the State and its agencies and officials in civil lawsuits. The Civil Division also advises State agencies and officials regarding the official duties and issues affecting these agencies or individuals.

In addition to these broad responsibilities the Civil Division is mandated by either statute, rule, or regulation to undertake various specific tasks such as securities enforcement, commitment of sexually violent predators, investigating and prosecuting grievances filed against attorneys practicing law in this State and judges, holding extradition hearings, serving as the hearing officer in personnel grievance proceedings, and reviewing statewide bonds and bonds of public officials. The statutes also grant certain civil authority to the Attorney General regarding anti-trust and consumer protection.

The areas of law and issues handled by this Division are diverse and include constitutional law, extradition, charitable trusts, lottery and gambling, election law, voting rights submissions and litigation, antitrust, state bonds, environmental law, annexation and

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incorporation, securities and sexually violent predators. The Civil Division includes four sections.

#### **The Government Litigation Section**

The Government Litigation Section of the Civil Division represents the State in such areas as constitutional law, extradition, charitable trusts, election law, annexation and incorporation.

#### **The Grievance Section**

The Grievance Section of the Civil Division investigates and prosecutes ethical misconduct complaints against lawyers and judges when authorized by the Commission on Lawyer Conduct and Commission on Judicial Conduct.

#### **The Securities Section**

The Securities Section of the Civil Division serves as a source of information for investors and regulates professionals in the securities industry.

#### **The Sexually Violent Predator Section**

The General Assembly enacted a law in 1998 to provide for a civil commitment process for long-term care and treatment of sexually violent predators. This Section represents the State in court proceedings regarding these commitments.

### **SPECIFIC STATUTES**

#### **Representation of the State, State Agencies, State Officials, and Public Employees**

Pursuant to S.C. Code Ann. §1-7-40, the Attorney General

... shall appear for the State in the Supreme Court in the trial and argument in such Court of all causes ... civil, in which the State is a party or interested, and in such causes if any other court or tribunal when required by the Governor or either branch of the General Assembly.

Section 1-7-50 requires the Attorney General to defend public officials and employees in civil actions brought against them where they acted in good faith. Section 1-7-80 requires the Attorney General to conduct all litigation which may be necessary for "... any department of the State government or any of the boards connected therewith ... ." By statute, the Attorney General must also advise the General Assembly, Governor, and State officers. See, Sections 1-7-70, 1-7-110.

### **Public Charities and Charitable Trusts**

Section 1-7-130 requires the Attorney General to

... enforce the due application of funds given or appropriated to public charities ... prevent breeches of trust in the administration thereof and, when necessary prosecute corporations which fail to make to the General Assembly any report or return required by law.

Pursuant to Section 62-7-501, the trustees of charitable trusts are required to file certified copies of the charitable trust instruments with the Office of the Attorney General within ninety days after the trust is created. In addition, the trustees must also file annual reports to the Attorney General's Office concerning the preceding year's activities.

### **Attorney Grievance Section**

The Attorney Grievance section works with the Office of Disciplinary Counsel to investigate and prosecute complaints of misconduct against lawyers and judges before the Commission on Lawyer Conduct and the Commission on Judicial Conduct. The Rules on Lawyer Disciplinary Enforcement (Rule 413, section 5(b)(4), S.C. Appellate Court Rules) and the Rules on Judicial Disciplinary Enforcement (Rule 502, section 5(b)(4), SCACR) both authorize this assistance from investigators and attorneys of the Office of Attorney General.

### **Extraditions**

Section 17-9-50 requires the Attorney General to hold a hearing on proposed extraditions and report his findings to the Governor.

### **State Employee Grievance Hearings**

Section 8-17-340 requires the Attorney General to designate staff to serve as a committee attorney to advise the State Employee Grievance Committee. The State Employee Grievance Committee hears all grievance appeals from State agencies regarding terminations, suspensions, etc. Pursuant to Regulation 706.05, the designated Assistant Attorney General must rule on all legal questions that arise at these hearings.

### **Bonds**

Pursuant to Section 8-3-140, the Attorney General must examine and certify, in writing, the bonds of all public officials. Additionally, pursuant to a regulation of the

Budget and Control Board, 19-102.63, prior to the Budget and Control Board approving an industrial revenue bond, hospital revenue bond, or pollution control bond, the Attorney General must review the bond and find it legally adequate.

### **Anti-Trust Issues**

The Attorney General often is presented with anti-trust issues. Specifically, Sections 39-3-2 and 39-3-190 require the Attorney General to enforce, along with the Solicitors the provisions of the statutes dealing with monopolies and conspiracies in restraint of trade.

### **Consumer Protection Issues**

Section 39-5-50, et seq., authorizes the Attorney General to bring an action in the public interest to prevent unfair trade practices occurring. Section 39-5-110 provides civil penalties for willful violations. See also Section 37-6-117.

### **Securities Section**

Section 35-1-20 provides that the Attorney General is the Securities Commissioner. He administers the securities law, which includes enforcement and regulatory responsibilities.

### **Sexual Violent Predator Section**

Section 44-18-10 establishes the sexually violent predator law and sets out the duties of the Attorney General to enforce the provisions of this Act.

### **Government Litigation Section**

Approximately three hundred and thirty-eight (338) new case files were opened during this time period on a wide variety of issues. There were nineteen anti-trust files opened during this period. Two of these cases have settled for a total of \$206,376.

### **Grievance Section**

Approximately one hundred and ninety-four (194) cases regarding attorney grievances were opened during this time period. One hundred and fifty-nine (159) were concluded.

### **Securities Section**

#### **Regulatory Activities**

**Registration and licensing of securities broker-dealers, broker-dealer agents, investment advisors and investment advisor representatives.**

The Section reviews thousands of applications for registration each year. Efforts are directed toward preventing securities industry sales representatives with problematic disciplinary histories from transacting securities business with South Carolinians. During this time period over 80,000 broker/dealers and investment agents were registered and almost \$72,000 in fines were collected.

### **Review and Registration of Mutual Funds, Unit Investment Trusts and Exempt Securities**

As with applications for representatives and agents, the Section processes thousands of investment product registrations each year. During this time period 7,448 were reviewed and either registered or exempted.

### **Investor Education**

The Section promotes investor education to assist the public in making informed decisions and avoiding being defrauded by unscrupulous persons and businesses. These goals were accomplished through numerous speaking engagements to civil group meetings and other public seminars and appearances.

### **Sexually Violent Predator Section**

In 1998, the General Assembly passed the Sexually Violent Predator Act, found in Section 44-18-10, et seq., of the South Carolina Code of Laws. The Section represents the State in court proceedings regarding the commitment of sexual violent predators and is also responsible for representing the State in any appeal filed as a result of the trial.

An individual committed pursuant to the Act is entitled to a yearly review of his mental condition by the court. The Attorney General is also responsible for representing the State at these yearly reviews. If the Court determines that probable cause exists to believe that the individual's mental condition has changed so that the individual is safe to be at large, the Attorney General is responsible for representing the State in the trial on this issue.

An individual committed under the Act may also petition the Court for release from confinement if the Director of the Department of Mental Health determines that the individual is safe to be at large. The Court, upon receipt of such petition, must order a hearing on this issue. The Attorney General is responsible for representing the State in the trial on this issue.

This Unit filed 164 Sexually Violent Predator cases last year, 156 cases were closed and 17 individuals were committed to the Department of Mental Health.

## **CRIMINAL DIVISION**

### **Capital Litigation Section**

Capital Litigation Unit Direct Appeals in the South Carolina Supreme Court (includes noncapital murder appeals and capital murder appeals and other matters handled by Capital Litigation Staff.)

**Objectives:**

- 1) To file all respondents briefs in a timely manner within the constraints of the particular case.

In the last fiscal year, 100% of the direct appeal initial and final briefs were filed in a timely manner within the constraints of the case. This includes 77 initial and final briefs prepared by the capital litigation unit, including direct appeal death penalty briefs in the South Carolina Supreme Court.

- 2) To request no more than two extensions in which to file an initial brief.

There were only four cases that required a third extension to file a brief. Each was warranted under the discrete circumstances of the case. One case involved an extensive record in a noncapital case with five codefendants and separate briefing, two were capital cases with extensive records, and the remaining two were caused by the extensive records he was dealing with in the other assigned cases. Therefore 68 of the 77 briefed cases were filed requiring less than three extensions or 88%.

**State Post Conviction Relief Death Penalty Cases****Objectives:**

- 1) To satisfy all deadlines required by the State in filings and case presentations consistent with the Effective Death Penalty Act of 1996 which are:

- 1) Schedule appointment hearings within 30 days of judge assignment.

In the last fiscal year, 100% of the initial appointment hearings for death penalty state PCR counsel were scheduled by the Unit within the statutory 30 day period.

- 2) File return 30 days after PCR is filed.

100% of all state PCR returns were filed within 30 days of receipt of the filed application in the death penalty PCR cases. No extensions were required. This involved eight pending capital cases (Charping, Council, Huggins, Ivey, Reed, Rogers, Rosemond, Tucker).

- 3) Satisfy in a timely manner collateral court requirements to hear the matter within one year of filing the application.

The Attorney General's Office has satisfied its responsibility in 100% of the 32 pending state PCR death penalty cases in this fiscal year by either timely requesting an appointment hearing and making itself available for the hearing, timely filing a return, and timely communicating with the assigned judge and Court Administration of the need to schedule hearings within its control, and advising the judge of the need to issue an order after briefing or pleadings. These cases involve the following: Ard, Byram, Charping, Council, Conyers, Thomas Davis, Elmore, Franklin, Larry Hall, Gardner, George, Hicks, Hill, Hughes, Ivey, Kelly, Longworth, McWee, Nance, Patterson., Powers, Ray, Reed, Riddle, Rogers, Rosemond, Simpson, Singleton, James Tucker, VonDohlen, Wilson, Williams .

## Federal Habeas Corpus

### **Objectives:**

1) To prepare and file each return with no more than two extensions.

100% of all federal habeas corpus actions had the returns filed in a timely

manner. There

2) On appeal, to file all pleadings without more than one request for an extension.

100% of all briefs to the U.S. Court of Appeals or the U.S. Supreme Court were filed without more than one extension.

### **Criminal Appeals Section**

South Carolina Code § 1-7-40 requires, in pertinent part, that the Attorney General appear for the State in the Supreme Court in the trial and argument of all criminal causes in which the State is a party. Along these lines, the Criminal Appeals Section of the office represents the State in appeals from criminal convictions in cases as requested from the circuit solicitors.

The performance measure and goal for the Section is the ability of staff attorneys to meet all appellate deadlines, with no more than one extension, in eighty percent (80%) of the appellate cases handled.

The objective of the Section in implementing the above performance measure and goal is to handle all appeals filed by criminal defendants, forwarded to us by circuit solicitors, in a manner which leads to a quick and orderly resolution of the cases. In



doing so, the backlog of cases may be reduced and quick and just punishment for the offender is ensured, while still allowing for any possible retrial while such cases are fresh for witnesses. An added benefit is a lessened impact on victims and their families.

In the past fiscal year, 91% of the total briefs filed were done so in a timely manner.

### **Insurance Fraud Section**

The Insurance Fraud Section was established by the General Assembly through enactment of the Omnibus Insurance Fraud Reporting Immunity Act, effective date July 1, 1994. Specific reference should be made to S.C. Code of Laws, § 38-55-560(A).

Performance measures, goals and objectives include the following:

1. To review allegations of insurance fraud and, whenever appropriate, refer such matters to SLED for investigation;
2. To aggressively prosecute those who commit insurance fraud and any criminal activity related to insurance fraud;
3. To collect fines and restitution ordered by the Court;
4. To increase awareness of the magnitude and pervasiveness of insurance fraud;
5. To maintain positive relationships with other government and private agencies to combat insurance fraud; and
6. To combine an aggressive fraud prosecution unit with increased public awareness to effectively reduce insurance fraud, benefitting consumers through lower insurance rates.

<b>SUMMARY OF ACTIVITY</b>	<b>1998*</b>	<b>1999*</b>
Total Complaints Received	416	215
Files Opened	148	137
Indictments	68	47
Criminal Convictions	33	60
Criminal Restitution Ordered	\$54,984.97	\$
401,073.22		
Civil Remedies	28	61
Civil Restitution	\$72,925.43	\$
264,786.33		
Amounts Confessed (Liens Ordered by Judge)**	\$128,708.19	

*\*Statistics for this division are kept on a calendar year basis.*

*\*\* 1999 is the first year these amounts have been broken out separately. Represents the balance of fines or restitution owed by defendant that is reduced to a lien by the judge.*

### **Medicaid Fraud Section**

In order to receive federal Medicaid monies, federal law [42 U.S.C. § 1396, et seq., See also, Part 1007 of 42 C.F.R.] mandates that the states must establish Medicaid Fraud Control Units to attack Medicaid provider fraud and patient abuse. The South Carolina Medicaid Fraud Control Unit complies with this federal mandate. The Unit prosecutes criminal cases of Medicaid provider fraud pursuant to South Carolina Code § 43-7-60, et seq. Civil recovery actions are also pursued by the Unit pursuant to South Carolina Code § 43-7-60(E). The Unit prosecutes patient abuse cases pursuant to the Omnibus Adult Protection Act (South Carolina Code § 43-35-5, et seq.). The Medicaid Fraud Control Unit's federal jurisdiction was expanded in late 1999 to authorize the Unit to pursue Medicare fraud when there is a strong Medicaid nexus and to pursue abuse and neglect of vulnerable adults in any facility in South Carolina regardless of the Medicaid status of the facility.

In the past fiscal year(1999-2000), the Unit received 806 complaints of health care fraud and patient abuse, neglect or exploitation; opened 167 investigations; and closed 183 investigations. Also, the Unit obtained convictions in 22 cases, as well as 5 recoveries in civil suits. Restitution and fines totaled \$892,407.27.

The following are the projections and performance goals for 2000-2001:

Projected Complaints Received:	400
Projected Complaints Investigated:	125
Projected Investigations Closed:	75

### **Post Conviction Relief Section**

S.C. Code Sections 1-7-40 and 17-27-20, et seq. require that the Attorney General appear for the State in post conviction relief matters. Therefore, the Post Conviction Relief section of the Office represents the State in non-capital post conviction relief matters in the circuit and appellate courts.

The objective of the Post Conviction Relief Section in implementing the following goals and performance measures is to handle all the non-capital post conviction relief cases filed in South Carolina in a manner that leads to a quick and orderly resolution.

Performance will be measured by complying with all statutory requirements in post conviction relief cases. Last fiscal year this section handled 3,264 cases.

### **Prosecution Section**

The constitutional or statutory authority, performance measures, goals, and objectives for the Prosecution Section and its subsections are as follows:

## General

The general purpose of the Prosecution Section is to prosecute conflict cases from solicitors' offices, both in General Sessions and Magistrate courts. Also, attorneys in the section will represent the state in other assigned criminal matters. Attorneys may also represent SLED in criminal matters.

1. **Tax Cases** - An assistant attorney general has been assigned to the Department of Revenue to prosecute criminal cases in the fields of taxation violations, gaming operations, and ABC violations.

**Environmental** - This Section works with the Department of Health and Environmental Control (DHEC) on criminal matters which arise as the result of criminal violations of environmental statutes and DHEC regulations.

**School Violence Prosecution** - An assistant attorney general has been assigned to supervise and monitor the prosecution of all reported school crime and to assist local officials in prosecution of school crime. This attorney will work closely with the Department of Education, local school districts, law enforcement, and solicitors. The School Crime Report Act requires the Attorney General to supervise the prosecution of school crime and also monitor school crime (S.C. Code Ann. §§59-63-330 and 59-63-360).

**Elder Abuse and Adult Protection** - An assistant attorney general has been assigned to prosecute cases involving the exploitation, and abuse and neglect of vulnerable adults and the elderly in all jurisdictions in South Carolina . Assistance and training are also provided to other agencies such as DSS, Department of Mental Health, and law enforcement.

The Prosecution Section will accomplish its goals by prosecuting cases until ultimate disposition and by developing relationships with other state and local agencies involved in prosecuting criminal cases statewide. The performance will be measured by the disposition of cases and their review by the section supervisor and criminal division deputy.

Last fiscal year, this section litigated 350 cases.

## Victim Services

The South Carolina Attorney General's Office developed the first full service program to assist victims in the post adjudication appellate process in the nation. The services offered include notification for direct appeals, post conviction relief merit trials, federal habeas corpus, petitions for rehearing, and the various petitions for certiorari. The services are provided to registered victims in all cases on appeal. Court accompaniment for victims is also provided for all direct appeals. These services are now required by statute (S.C. Code Ann. § 16-3-1560). Following the 1984 statute addressing victims' rights, this office developed a new

Victim Impact Statement and will supply Solicitor's offices with these forms upon request.

Cases referred to the Attorney General's Office for prosecution are channeled to Victim Services for assistance in filing victim compensation forms, completing victim impact statements, preparing victim impact testimony, referrals, and court accompaniment. Upon conviction, this office registers the victim with the appropriate agencies handling post adjudication notification.

A model protocol for death penalty cases has been developed by Victim Services with the Department of Corrections. The protocol includes pre-execution briefings, media management, and execution notification.

**Performance measurement:** Performance is measured by complying with the Victims Bill of Rights and other statutory requirements in all cases. In the past fiscal year, 1495 cases were handled by this section.

#### **Youth Mentor**

The Attorney General's Office has established a youth mentor program to serve juvenile offenders in Family Court. The program shall be used as a pre-trial diversion option for solicitors and as an optional alternative sentence for Family Court Judges. (S.C. Code Ann. § 20-7-1331)

The goals of the program are:

1. Reduce juvenile incarceration rate;
2. Provide positive role models;
3. Reserve DJJ facilities for more serious offenders;
4. Reduce court costs;
5. Break the cycle of crime before adulthood;
6. Promote academic excellence;
7. Promote positive citizenship;
8. Create a partnership between court and community;
9. Taxpayer savings; and
10. Direct citizen involvement.

#### **CircuitCounties**

4<sup>th</sup>

8<sup>th</sup>

12<sup>th</sup>

#### **Sites Mentors Mentees Grads Terminated Released**

**2000 YC**

Chesterfie  
Dillon, M

Abbeville  
Greenwo

Florence

#### 4. **School Violence**

This program seeks to reduce school violence by providing a statewide primary point of contact for school violence/crime related information, violence prevention program information and support, and training/technical assistance opportunities.

The goals of the program are:

Continue to improve the reporting of school crime incidents. The SEE-A-GUN tip line coordinated its efforts with local crime stoppers organizations and received five gun tips resulting in approval of rewards.

Continue to raise public awareness regarding school violence. Last fiscal year, 47 training presentations were made by the unit.

Assist the judicial system's response to school crimes.

Improve access to information related to youth violence, school violence, and violence reduction/prevention programs. Last fiscal year, training was provided to education officials and school resource officers regarding safe school/crisis management planning.

Continue the development of a multi-disciplinary approach to violence in schools that includes representatives from education, law enforcement, prosecution, and other interested agencies. Last fiscal year, unit personnel continued membership in the S.C. Association of School Resource Officers and assisted citizens who made inquiries over the 1-888-NO-BULLY phone line.

Gather statewide information related to gang activity affecting the school environment. Last fiscal year, assistance was provided to the S.C. Law Enforcement Division in applying for federal grant money to fund a statewide gang database, and assisted with coordinating the activities of the S.C. State Gang Task Force.

**Performance measurement:** Performance is measured through direct supervision by the Prosecution Section head.

#### 5. **Violence Against Women Program (Grant)**

This program seeks the reduction of crimes against women through one comprehensive, statewide judicial education/training program (particularly for magistrates and municipal court judges) which will teach the dynamics of abusive relationships, lethality assessments, and enforcement of no-drop policies; application and intent of South Carolina laws on criminal domestic violence (CDV), criminal sexual conduct (CSC), and stalking; relevant aspects of law enforcement and prosecutorial protocols; and the collaborative role of the judiciary in enforcing relevant South Carolina laws which are conducive to the victimless prosecutions of these crimes as set forth by the response protocols.

On-site interactive training seminars are offered to law enforcement officers, solicitors, judges, and victim services providers on domestic violence stalking, and sexual assault.

Prosecution assistance is available to law enforcement officers in Magistrates' Court and solicitors in General Sessions Court. The Special Prosecutor will accept (approved) criminal domestic violence (CDV), criminal sexual conduct (CSC), and stalking cases referred to our Program by law enforcement and solicitors of each circuit for prosecution or assistance as needed.

**Performance measurement:** Performance is measured through direct supervision by the Prosecution section head and through the filing of quarterly reports with the Department of Public Safety to ensure compliance with the goals and objectives of the grant.

**Unauthorized Practice of Law Program**

An assistant attorney general has been assigned to prosecute unauthorized practice of law cases throughout the State. Additionally, this attorney represents the State in actions for the civil enforcement of applicable laws and before the Supreme Court in its original jurisdiction.

## **STATE GRAND JURY**

South Carolina's Constitution was amended in 1989 to permit the establishment of a state grand jury. The General Assembly ratified the constitutional amendments and the State Grand Jury Act, §§ 14-7-1600 through 14-7-1820, 1976 Code of Laws of South Carolina, as amended, became effective on February 15, 1989. On May 4, 1992, the State Grand Jury Act was significantly amended. Subject matter jurisdiction of the State Grand Jury is limited by statute to crimes involving narcotics, dangerous drugs, controlled substances, obscenity, public corruption, elections, and crimes arising out of or in connection with these crimes. Drug and obscenity crimes must be of a multi-county nature or have significance in more than one county.

By statute, in order for the State Grand Jury to properly consider a matter, the Attorney General and the Chief of the South Carolina Law Enforcement Division must make such a request. The Attorney General must then petition the chief administrative judge for an appropriate Order. This petition must allege the type of offenses to be inquired into and must specify that the public interest is served by impaneling the State Grand Jury for the particular case.

The Attorney General or his designee attends sessions of the State Grand Jury, serves as its legal advisor, examines witnesses, and presents evidence. The Chief of the State Grand Jury is designated to perform these functions for the Attorney General. A

Solicitor or Assistant Solicitor may be designated by the Attorney General to present an appropriate matter to the State Grand Jury.

The investigative authority and ability of the State Grand Jury make it a unique investigative body. The State Law Enforcement Division (SLED) provides investigative services as the State Grand Jury requires. Currently, there are nine SLED agents assigned to the State Grand Jury. These nine agents, along with four attorneys assigned to the State Grand Jury Division, allow the Grand Jury to appropriately investigate larger and/or more complex crimes than an ordinary county grand jury. The Clerk of the State Grand Jury may issue subpoenas or subpoenas duces tecum to compel individuals, documents, or other materials to be brought from anywhere in the State. Furthermore, witnesses may be ushered before the State Grand Jury and may be compelled to testify, by grant of immunity, even though such testimony is self incriminating. Since its inception in 1989, the State Grand Jury has developed a reputation of being committed to coordination between all law enforcement agencies and to advocating law enforcement's interests.

The objectives for the State Grand Jury are as follows:

1. To maintain a on  
2. To work  
effectively with, and zealously for, the interest of law enforcement, including those agencies who bring appropriate cases to the State Grand Jury for investigation and prosecution. Last fiscal year, agents were involved in all major decisions including plea negotiations.
3. To  
maintain its reputation for excellence in the investigation and termination of large-scale drug operations and conspiracies. In FY 99-00, the State Grand Jury prosecuted four large drug operations including organizations in the Upstate, the Midlands, and Charleston.
4. To  
carefully review and appropriately handle all requests for investigations and complaints from the public and other agencies.
5. To take  
a leading role in prosecuting and assisting in the prosecution of obscenity and child pornography cases statewide. In FY 99-00, the State Grand Jury assisted or advised in the prosecution of over 20 child pornography or obscenity cases. A State Grand Jury prosecutor served as national chairman of the Internet Crimes Against Children committee.
6. To  
successfully investigate and prosecute pending public corruption cases. In

FY 98-99, the State Grand Jury prosecuted several high-profile public corruption cases including nine defendants convicted in conjunction with a fraudulent overtime scheme at the City of Columbia and fourteen defendants convicted in the Sumter School District 17 embezzlement case .

7.

To

successfully defend over ninety percent (90%) of our successful prosecutions throughout the appellate process. In FY 99-00, seven of eight cases were successfully defended. Two defendants were retried and received 25 year sentences for drug trafficking.

## OPINIONS DIVISION

The authority of the Attorney General to issue legal opinions is provided by statutes which direct the Attorney General to give his opinion upon questions of law submitted to him. It is the policy of this Office to strictly observe and adhere to these statutes:

### A. Statutory Authority to Issue Opinions and Advise Public Officials.

1. The Attorney General's Office is required to consult and advise the Circuit Solicitors in relation to the duties of their offices (S.C. Code Ann. § 1-7-100); and
2. The Attorney General's Office is required to consult and advise the State Constitutional Officers and any other State Officer on questions of law relating to their official duties (S.C. Code Ann. § 1-7-110).

The Attorney G

### B. Based upon the foregoing statutory authority, and other authorities, the following policies are observed by this Office:

1. On those occasions when no opinion is authorized, this Office will research its opinion files and provide the requestor with copies of prior opinions addressing analogous questions, relevant statutes, applicable South Carolina cases or other pertinent information; and
2. Although state law does not authorize the Attorney General to issue opinions to county and municipal governments, this Office will respond to requests from these entities pursuant to the following guidelines:

a.

The

Council, collectively, must request the opinion by a majority vote of that body;



- b. The written opinion request must be submitted by the county or municipal attorney;
  - c. The local attorney will provide to this Office a memorandum of law on the issue in question setting forth a concise statement of the issue, relevant facts, the principal legal authorities, a discussion of the applicable law, and a conclusion;
  - d. This Office will communicate directly with the local attorney in determining the nature of an appropriate response, which may include:
    - 1. Providing research and/or prior opinions;
    - 2. Providing a written opinion of this Office; or
    - 3. After consulting with the local attorney, referring the matter back to him for resolution and final disposition; and
  - e. If a municipality cannot afford to employ counsel, the mayor, without benefit of a legal memorandum, may submit the question upon a majority vote of council for an appropriate response by this Office.

3. Although state law does not authorize the Attorney General to issue opinions to school districts, this Office will respond to such requests, whenever possible, provided a majority of the district's members vote to make the request and submit it through the district's attorney. If the school district's attorney requests an opinion on behalf of the district, the attorney must provide this Office with a legal memorandum setting forth the issue, pertinent facts, principal authorities, and conclusion.

4. Although state law does not authorize the Attorney General to issue opinions to special purpose districts or similar entities, this Office will respond to such requests, whenever possible, provided a majority of the district's members vote to make the request and submit it through the district's attorney. If the special purpose district's attorney requests an opinion on behalf of the district, the attorney must provide this Office with a legal memorandum setting forth the issue, pertinent facts, principal authorities and conclusion.

5. In the discretion of the Attorney General, exceptions to items 2 - 4, above, may be made where:

- a. A crisis situation exists which cannot be adequately resolved by local counsel (or there is no local counsel); or
- b. The issue involved is one of clear and substantial statewide importance.

C. Performance Goals and Measures.

1. Goal: All opinions will be thoroughly researched and fairly and objectively written. Measure: The Chief of the Opinions Division will review and approve all opinions prior to their issuance.

2. Goal: All opinions will be issued in a timely fashion with the Governor and the General Assembly receiving top priority. Measure: The Chief of the Opinions Division will maintain a log of all opinion requests to ensure they are answered in a timely fashion.

During the past fiscal year, 46 requests for opinions were received from members of the General Assembly. Of those, 40 were completed with an average response time of 31.5 days.

## EXPENDITURE REPORT